

**Remarks**

Claims 1-19 and 21-37 are pending in the application.

Claims 1-11, 14-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Weare et al. US 7,065,416 (Weare).

Claims 24-29, 31-32 and 34-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Larouche US 6,453,252 (Larouche).

Claims 5-6, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weare.

Claims 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larouche.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Entry of this Amendment is proper under 37 CFR 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known

prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

### **Rejection Under 35 U.S.C. 102**

#### **Claims 1-11, 14-16 and 18**

Claims 1-11, 14-16 and 18 are listed in the preamble of the Examiner's arguments as rejected under 35 U.S.C. 102(e) as being anticipated by Weare. However, the Applicants respectfully note that specific grounds of rejection are actually provided for claims 1-4, 7-16, 18, 24-29, 31, 32, 36 and 37. Moreover, no grounds of rejection under any statute have been provided for independent claims 21-23. The Applicants assume the Examiner's exclusion of grounds of rejection of claims 21-23 under 35 U.S.C. 102(e) is an oversight and will therefore argue the merits of these claims herein, including currently amending the claims. However, the Applicants' assumption should not be construed as a concession that any such rejection is/would-be proper. Likewise, if the exclusion of grounds of rejection against claims 21-23 was not an oversight, and the Examiner intended to allow the claims in their previously presented form, he is

respectfully requested withhold the current amendments to claims 21-23 and allow them as such.

In view of the above, the assumed rejection of claims **1-4, 7-16, 18, 21-29, 31, 32, 36** under 35 U.S.C. 102(e) is respectfully traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. The Applicants respectfully submit the Weare reference fails to disclose each and every element of the claimed invention, as arranged in independent claim 1. Specifically, the Weare reference fails to teach or suggest at least the claim element “wherein said plurality of filters have center frequencies logarithmically spaced apart from each other with a logarithmic additive factor of 1/12.” This claim element is explained in the specification, among other places, on page 7, lines 6-13 and graphically depicted in FIG. 2.

Independent claims 21, 21, 23 and 24 recite similar limitations to claim 1 and are therefore patentable for at least the same reasons as independent claim 1. Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Weare.

Therefore, Applicants’ claims 1-4, 7-16, 18, 21-29, 31, 32, 36 are allowable over Weare. under 35 U.S.C. 102. The Applicants respectfully request the Examiner withdraw the rejection.

**Claims 24-29, 31-32 and 34-37**

Claims 24-29, 31-32 and 34-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Larouche. The rejection is traversed.

Anticipation requires the presence, in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim(s) being scrutinized. Regarding independent claims 24, 34, and 35, the Larouche reference does not meet this criteria. In particular, Larouche fails to teach or suggest at least the limitation “wherein said plurality of filters have center frequencies logarithmically spaced apart from each other with a logarithmic additive factor of 1/12,” as recited in currently

amended claim 1. As noted above, this claim element is explained in the specification, among other places, on page 7, lines 6-13 and graphically depicted in FIG. 2.

As such, independent claims 24, 34, and 35 are not anticipated by Larouche and are patentable under 35 U.S.C. 102. Claims 25-29, 31-32 recite relevant limitations similar to those recited in independent claim 24, and claim 36 recites relevant limitations similar to those recited in independent claim 35. As such, and at least for the same reasons as discussed above, these independent claims also are not anticipated by Larouche and are patentable under 35 U.S.C. 102.

Claim 37 discloses a computer readable storage medium, configured to store respective media program identifiers, arranged in a manner described by limitations similar to those appearing in independent claims 21 and 24, which have already been shown to be allowable. As such, currently amended independent claim 37 is not anticipated by Larouche, and is patentable under 35 U.S.C. 102, at least for the same reasons already discussed regarding the preceding claims.

The arguments presented above have shown that claims 24-29, 31-32 and 34-37 are allowable over Larouche. under 35 U.S.C. 102. Applicants respectfully request the Examiner withdraw the rejection.

#### **Rejection Under 35 U.S.C. 103(a)**

Claims 5-6, 17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weare. Claim 30, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larouche. The rejections are respectfully traversed.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejections under 35 U.S.C. 102 given Weare or Larouche. Since the rejections under 35 U.S.C. 102 given Weare and Larouche have been overcome, these grounds of rejection cannot be maintained.

Therefore, Applicants' claims 5-6, 17, 19, 30 and 33 are allowable over Weare and Larouche under 35 U.S.C. 103(a). Applicants respectfully request the Examiner withdraw the rejection.

**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: \_\_\_\_\_

5/7/08



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Eamon J. Wall  
Registration No. 39,414  
Attorney for Applicants

PATTERSON & SHERIDAN, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702  
Telephone: 732-530-9404  
Facsimile: 732-530-9808